

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FAIRWAY PROJECT LLC
Plaintiff,

VS.

**ATEGRITY SPECIALTY INSURANCE
COMPANY,**
Defendant.

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CIVIL ACTION NO.: _____

[JURY DEMANDED]

DEFENDANT’S NOTICE OF REMOVAL

COMES NOW, Defendant, Ategrity Specialty Insurance Company (“Ategrity” or “Defendant”), and files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446:

I. PROCEDURAL HISTORY

1. On February 19, 2025, Plaintiff, *Fairway Project LLC* (“Plaintiff”), filed its Original Petition and initiated an action against *Defendant, Ategrity Specialty Insurance Company*; in the 189th Judicial District Civil Court of Harris County, Texas, in Cause No. 2025-11364 (the “State Court Action”). *See* Exhibit “A” attached hereto and incorporated herein by reference.

2. Defendant, Ategrity, was improperly served on or about February 27, 2025. Plaintiff’s Civil Process Request and Return of Service on Ategrity reflecting service on someone who was not the registered agent for service of process is attached as Exhibit “B.”

3. Defendant accepted service, per the agreement of the Parties, on May 7, 2025. *See* Exhibit “C.”

4. Defendant filed an Answer in the State Court Action on May 20, 2025. *See* Exhibit “D” attached hereto and incorporated herein by reference.

5. Defendant’s Notice of Removal was filed on May 20, 2025, which is within the

thirty-day statutory time period for removal allowed under 28 U.S.C. §1446(b).

II. FACTUAL BACKGROUND

6. This suit concerns a first-party claim submitted under a Commercial Property Policy issued by Ategrity to Plaintiff. Plaintiff alleged it suffered storm damage from Hurricane Beryl on or about July 6, 2024.

7. Plaintiff contends that Defendant has wrongfully not paid its claim, and so it filed suit for declaratory relief, breach of contract, violations of Texas Insurance Code Chapters 541 and 542, violations of the Deceptive Trade Practices Act, and breach of the duty of good faith and fair dealing. Plaintiff's Original Petition in ¶4 states that Plaintiff seeks damages of over \$250,000.00.

8. Defendant does not admit the underlying facts alleged by Plaintiff and expressly denies liability to Plaintiff.

III. DIVERSITY JURISDICTION

9. Plaintiff, Fairway Project LLC, is a limited liability company formed under the laws of Texas. Plaintiff consists of two members, Pawan Kumar and Ahmed Vaid, who are both individuals and citizens of Texas.

10. Defendant, Ategrity Specialty Insurance Company, is a corporation foreign corporation organized under the laws of the State of Delaware with its principal place of business in Scottsdale, Arizona. For purposes of diversity jurisdiction, Ategrity is a citizen of Delaware and Arizona under 28 U.S.C. § 1332.

11. Removal is proper because there is complete diversity between the parties.

12. Venue is proper in the Southern District of Texas, Houston Division, because the Plaintiff's Property made the subject of the suit is located in Harris County and within the Houston

Division.

13. The “matter in controversy” under 28 U.S.C. § 1332(a) is determined by reference to the plaintiff’s pleadings. The damages the plaintiff claims in its petition, if apparently claimed in good faith, are controlling. *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288 (1938). Plaintiff has pled that the estimated amount of its damage is more than \$250,000.00 in its Original Petition at ¶4 on page 2. See Exhibit “A.” Thus, the amount in controversy exceeds the \$75,000 jurisdictional requirement.

IV. INFORMATION FOR THE CLERK

14. Plaintiff: Fairway Project LLC

15. Defendant: Ategrity Specialty Insurance Company

16. The case is pending in the 189th Judicial District Civil Court of Harris County, Texas:

Honorable Judge Tamika Craft-Demming
201 Caroline, 12th Floor
Houston, TX 77002
Telephone: 832.927.2325

17. Pursuant to 28 U.S.C. § 1446(a), Defendant has attached copies of all processes and pleadings served upon it in the State Court Action. No further proceedings have been had therein. Pursuant to Local Rule 81, a copy of the trial court’s docket sheet is attached as Exhibit “E” and an Index of Matters Being Filed is attached as Exhibit “F”.

18. Counsel for Plaintiff, Fairway Project LLC
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19. Counsel for Defendant, Ategrity Specialty Insurance Company:
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Jury Demand

20. Defendant demanded a jury trial in state court and requests a trial by jury in federal court as well. Plaintiff also made a jury demand in state court.

Miscellaneous

21. Defendant will promptly notify the 189th Judicial District Civil Court of Harris County, Texas of its Removal of the State Court Action to this Court.

22. Because Plaintiff consists of two individuals who are residents and citizens of Texas, Defendant is a corporation who is the citizen of Delaware and Arizona, and because the amount in controversy exceeds \$75,000, the Court has subject matter jurisdiction based on diversity of citizenship. 28 U.S.C. §1332. As such, this removal action is proper.

WHEREFORE, Defendant, Ategrity Specialty Insurance Company, respectfully requests that the above-entitled action be removed from the 189th Judicial District Civil Court of Harris County, to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

PHELPS DUNBAR LLP

BY: /s/ Peri H. Alkas

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**ATTORNEYS FOR DEFENDANT,
ATEGRITY SPECIALTY INSURANCE
COMPANY**

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing instrument has been served on all counsel of record via e-file notification on May 20, 2025.

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/s/ Peri H. Alkas

Peri H. Alkas / Nicole M. Hilburn